

Message Text

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ACTION EB-08

INFO OCT-01 ARA-10 ISO-00 SOE-02 AID-05 CEA-01 CIAE-00
COME-00 DODE-00 DOE-11 H-01 INR-07 INT-05 L-03
NSAE-00 NSC-05 OMB-01 PM-05 USIA-06 OES-07 SP-02
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FM AMEMBASSY CARACAS
TO SECSTATE WASHDC PRIORITY 650

C O N F I D E N T I A L CARACAS 223

EO 11652 GDS
TAGS: ENRG VE
SUBJ: REPORTED TERMINATION OF MOBIL'S TECHNICAL SERVICE
CONTRACT

REF: A STATE 4078 B STATE 5183

1. SUMMARY. MOST OIL COMPANIES EXPECT TO CONTINUE PROVIDING SERVICES TO VENEZUELAN OIL INDUSTRY UNDER CURRENT OR RENEGOTIATED TECHNICAL SERVICE CONTRACTS. MOBIL'S SITUATION APPEARS TO DIFFER FROM THAT OF OTHER COMPANIES IN A NUMBER OF RESPECTS. TECHNICAL SERVICES ARE PROVIDED UNDER PRIVATE CONTRACTS BETWEEN THE COMPANIES AND THE NATIONAL OIL HOLDING COMPANY AND HAVE NO LEGAL TIE TO THE COMPENSATION AWARDED AT THE TIME OF NATIONALIZATION. END SUMMARY.

2. THE AMBASSADOR WILL MEET WITH MOBIL PRESIDENT TAVOULAREAS AND OTHER OFFICIALS THE MORNING OF JAN 11. IN THE MEANTIME, HOWEVER, THE FOLLOWING BACKGROUND INFO MAY BE USEFUL TO THE DEPT.

3. MOST OF THE OIL COMPANIES WHICH SIGNED TECHNICAL SERVICE CONTRACTS AT THE TIME OF NATIONALIZATION HAVE AGREED OR EXPECT TO AGREE WITH PETROLEOS DE VENEZUELA, THE NATIONAL HOLDING CO., AND ITS OPERATING SUBSIDIARIES ON THE PROVISION OF SERVICES FOR THE
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YEARS 1978 AND 1979. THESE ARE PRIVATE CONTRACTS, LEGALLY UNRELATED TO NATIONALIZATION, WHICH HAVE NOT BEEN MADE PUBLIC AND ARE NOT AVAILABLE TO THE EMBASSY. WE UNDERSTAND, HOWEVER, THAT IMPORTANT DIFFERENCES EXIST IN THEIR DURATION AND IN THE FEES INVOLVED, WITH SOME CON-

TRACTS RUNNING FOR THE FULL FOUR YEARS AND OTHERS EFFECTIVELY SUBJECT

TO CANCELLATION AFTER TWO YEARS. ADDITIONAL INFO ON THESE CONTRACTS WAS PROVIDED IN CARACAS A-24 OF FEB 24, 77(PAGES 8-10). AS THE LISTING BELOW INDICATES, SOME OF THOSE COMPANIES WITH CONTRACTS WHICH HAVE EXPIRE OR HAVE BEEN CANCELLED ARE NEGOTIATING NEW CONTRACTS, APPARENTLY ACCEPTING CHANGES REQUESTED BY THE NATIONALIZED INDUSTRY. SEE ALSO PETROLEUM INTELLIGENCE WEEKLY OF JAN 2, 1978 FOR RUN DOWN OF THIS PROBLEM.

4. THE TECHNICAL SERVICE CONTRACTS CAME UNDER HEAVY CRITICISM EARLIER THIS YEAR FROM LEFTIST GROUPS AND SUBSEQUENTLY FROM THE MAJOR OPPOSITION POLITICAL PARTY (CARACAS 5567, JUN 3, 1977, PARA 1 AND CARACAS 6164, JUN 17, 1977, PARA 3). THE MAJOR COMPLAINTS LODGED AGAINST THE CONTRACTS WERE THAT THEY WERE MERELY A GUISE FOR PROVIDING ADDITIONAL COMPENSATION TO THE COMPANIES, PROVIDED FEW SERVICES FOR THE COST AND RESTRICTED THE TRANSFER OF THE TECHNOLOGY WHICH WAS PROVIDED, AND CONTAIN ILLEGAL CLAUSES. THE GOV AND PETROLEOS HAVE CONSISTENTLY AND STAUNCHLY DEFENDED THESE CONTRACTS AS NECESSARY AND USEFUL. NOW THAT THEY ARE UP FOR RENEWAL OR RENEGOTIATION OF THE FEE, HOWEVER, PETROLEOS IS ATTEMPTING TO CHANGE AT LEAST SOME OF THE PROVISIONS WHICH HAVE BEEN THE MOST DIFFICULT TO DEFEND. IN PARTICULAR, WE ARE TOLD THERE IS A STRONG EFFORT TO REMOVE OR AT LEAST MODIFY THE CONFIDENTIALITY PROVISION WHICH RESTRICTS THE SERVICES PROVIDED TO THE SINGLE COUNTERPART OPERATING COMPANY (SEE PAGE 14 OF CARACAS A-24).

5. IN THE SPECIFIC CASE OF MOBIL, THERE HAD BEEN VARIOUS INDICATIONS THAT THE COMPANY IS LESS INTERESTED THAN MOST OTHERS IN MAINTAINING ONGOING AGREEMENTS IN VENEZUELA (STATE 084123 OF APRIL 15, 77, PARA 5 AND CARACAS 9936 OF OCT 11, 1977, PARA 18). ALSO MOBIL'S CONTRACT WAS SINGLED OUT FOR SPECIAL CRITICISM BECAUSE IT PROVIDED FOR ARBITRATION OF DISPUTES OUTSIDE OF VENEZUELA (AT THE INTERNATIONAL CHAMBER OF COMMERCE IN PARIS) WHICH ITS CRITICS MAINTAIN IS CONTRARY TO THE VENEZUELAN CONSTITUTION. ACCORDING TO MOBIL'S LOCAL REPRESENTATIVE, MOBIL WAS THE ONLY COMPANY WHICH HAD SUCH A CLAUSE IN ITS CONTRACT. ALSO MOBIL AND THE OTHER MEDIUM SIZED COMPANIES (TEXACO AND SUN) FACE A SPECIAL PROBLEM AS THEIR COUNTER-PART OPERATING COMPANIES (LLANOVEN, DELTAVEN AND PALMOVEN) ARE BEING COMBINED WITH THE ORIGINAL VENEZUELAN OIL CO., CVP, TO FORM ONE OF THE FOUR MAJOR INTEGRATED COMPANIES (CARACAS 10335), OCT 21, 1977. PARA 1).

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6. THE CURRENT STATUS OF ALL OTHER TECHNICAL SERVICE CONTRACTS, AS REPORTED TO THE EMBASSY BY COMPANY REPRESENTATIVES, IS AS FOLLOWS: EXXON- AGREEMENT HAS BEEN REACHED ON A NEW BASE PER BARREL FEE, AND THUS THE AGREEMENT IS EXTENDED FOR TWO MORE YEARS. BASE FEE REDUCED BY FIVE PERCENT, BUT THIS IS MORE THAN COMPENSATED FOR BY A FEE ESCALATION RELATED TO INFLATION.

STILL HOLDING OUT ON CONFIDENTIALITY CLAUSE (SEE PIW, JAN 2, 1978).

SHELL (ROYAL DUTCH, NOT US SHELL) ALSO UNDERSTOOD TO HAVE REACHED AGREEMENT ON REMAINING TWO YEARS, AND REPORTED TO HAVE ACCEDED TO SOME MODIFICATIONS ON CONFIDENTIALITY.

GULF- TECHNICALLY DO NOT HAVE AN AGREEMENT FOR THE NEXT TWO YEARS, BUT EXPECT TO SIGN ONE SHORTLY. HAVE NOT YET ACCEDED TO CHANGES IN CONFIDENTIALITY CLAUSE.

TEXACO- HAVE A THREE-MONTH EXTENSION OF ORIGINAL TWO-YEAR CONTRACT AT SAME FEE TO PROVIDE TIME TO REVIEW AND RENEGOTIATE A NEW CONTRACT.

SUN- HAVE NOT YET SIGNED NEW CONTRACT, BUT EXPECT TO DO SO SHORTLY.

TERMD ANS FEE STRUCTURE OF NEW CONTRACT UNAVAILABLE.

PHILLIPS - CLAIM TO HAVE A STRAIGHT FOUR-YEAR CONTRACT, BUT REPORT CONFIDENTIAL

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THAT PETROLEOS HAS REQUESTED THAT A NEW PENDING CONTRACT TO PROVIDE SERVICES TO THE PETROCHEMICAL INDUSTRY SERVE AS SUBSTITUTE FOR FINAL TWO YEARS.

CHEVRON- AGREEMENT EXPIRED AT END OF 1977. HAVE BEEN ASKED TO PROVIDE FUTURE SERVICES ON A FEE PER MAN-HOUR BASIS AND HOPE TO REACH AGREEMENT ON THIS BASIS SOON.

AMOCO- AGREEMENT EXPIRED AT THE END OF 1977. COMPANY IS CLOSING ITS LOCAL SERVICES OFFICES.

ARCO NEVER SIGNED ORIGINAL SERVICES CONTRACT.

7. COMMENT. WE HAVE NOTED AN INCREASING TENDENCY TO LINK THE TECHNICAL SERVICE CONTRACTS TO THE BROADER QUESTIONS OF COMPENSATION AND THE CLAIMS PENDING SINCE NATIONALIZATION.

FOR INSTANCE STATE 298438 REPORTS THAT GULF OIL VIEWS THESE CONTRACTS AS PART AND PARCEL OF ITS OVERALL COMPENSATION. WHILE THE COMPANIES MAY CHOOSE TO VIEW THE FEES PAID UNDER THESE CONTRACTS AS A FORM OF ADDITIONAL COMPENSATION, WE KNOW OF NO LEGAL BASIS FOR THIS. THE COMPENSATION TO BE PAID TO THE EX-CONCESSIONAIRES WAS FIXED BY THE VENEZUELAN CONGRESS IN THE NATIONALIZATION LAW AS AN AMOUNT NOT TO EXCEED THE NET VALUE COVERING PROPERTIES, PLANTS AND EQUIPMENT. NEITHER THE MINISTRY OF ENERGY NOR PETROLEOS DE VENEZUELA CAN LEGALLY PAY ADDITIONAL AMOUNTS OF COMPENSATION. THE TECHNICAL SERVICE CONTRACTS ARE, TO THE BEST OF OUR KNOWLEDGE STRAIGHTFORWARD CONTRACTS BETWEEN PRIVATE CORPORATIONS AND PETROLEOS DE VENEZUELA, AN ENTITY OF THE GOV. COPIES OF THESE CONTRACTS HAVE NEVER BEEN OFFICIALLY RELEASED, AND ARE NOT AVAILABLE TO THE EMBASSY, BUT WE ASSUME THEY CONTAIN PROVISIONS FOR THE SETTLEMENT OF DISPUTES. END COMMENT.

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